

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

TREVOR FITZGIBBON

Plaintiff,

v.

Civil Action No. 3:19cv477

JESSELYN A. RADACK,

Defendant.

ORDER

For the reasons set forth on the record during the May 4th, 2020 conference call, it is hereby ORDERED that:

(1) DEFENDANT'S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(1) (ECF No. 47) is denied as moot with leave to refile the motion according to the following schedule:

(a) Defendant shall refile her Motion to Dismiss pursuant to 12(b)(1) by May 18, 2020;

(b) Plaintiff shall file a response by May 24, 2020; and

(c) Defendant shall file a reply by June 3, 2020;

(2) Defendant shall file a supplemental brief to DEFENDANT'S MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6) (ECF No. 50) addressing the Subsection "Resulting Damage" (ECF No. 51 at 7-8) according to the following schedule:

(a) Defendant shall file a supplemental brief by May 18,

2020;

(b) Plaintiff shall file a response by May 24, 2020; and

(c) Defendant shall file a reply by June 3, 2020

It is so ORDERED.

/s/

REP

Robert E. Payne
Senior United States District Judge

Richmond, Virginia

Date: May 5, 2020